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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,318	09/29/2003	David Todjar Hengami	HENG-67322	5278
24201	7590	06/29/2005	EXAMINER	
FULWIDER PATTON LEE & UTECHT, LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE TENTH FLOOR LOS ANGELES, CA 90045			ELKINS, GARY E	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 06/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,318

Applicant(s)

HENGAMI, DAVID TODJAR

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rous '038.

4. Claims 18 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by either O'Neill or Rous '926.

5. Claims 9, 11, 14-16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Forbes, Jr.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forbes, Jr in view of Rous '926. Forbes, Jr discloses all structure of the claimed box except arrangements for initiating movement of the actuation panel. Rous '926 teaches that it is known to make an actuation panel on a slide closure with arrangements (21) to facilitate moving the panel. It would have been obvious to make the slide closure actuation panel of Forbes, Jr with arrangements as taught by Rous '926 to make it easier to open and close the actuation panel.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forbes, Jr in view of Williamson. Forbes, Jr discloses all structure of the claimed box except stops for limiting movement of the slide. Williamson teaches that it is known to provide stops (31'') on a slide closure to limit the movement of a slide closure. It would have been obvious to make the slide closure in Forbes, Jr with stops as taught by Williamson to prevent unwanted movement of the closure during use.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forbes, Jr. Forbes, Jr discloses all structure of the claimed box except sizing of the box with a transverse extent between two and three inches. It would have been obvious to make the box of Forbes, Jr with a transverse extent between two and three inches as a mere selection of the volume of material one wishes to hold in the box. The mere sizing of a container is within the level of skill in this art. See In re Rose, 105 USPQ 237 (CCPA 1955) and Gardner v. TEC Systems, Inc., 220 USPQ 777 (Fed. Cir. 1984).

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10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forbes, Jr in view of Bayless. Forbes, Jr disclose all structure of the claimed box except formation of the box with six sides. Bayless teaches that it is known to make a box with a top dispensing aperture formed in the top flaps with six sides. It would have been obvious to make the box of Forbes, Jr with six sides with the dispensing closure within the top closure flaps as taught by Bayless to allow repeated opening and closing of the dispensing aperture in a box with six sides.

11. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayless in view of either Cote or Phillips, Jr. Bayless discloses a hexagonal box with a top pouring spout formed within the top closure flaps, but does not disclose formation of a slide closure. With respect to claim 5, Bayless also does not disclose formation of the transverse extent of the box between two and three inches. Each of Cote and Phillips, Jr teaches that it is known to make the top closure flaps of a box with a slide closure including an actuation panel extending down a side of the box. It would have been obvious to make the top closure of the box in Bayless with a slide closure as taught by either Cote or Phillips, Jr to facilitate repeated opening and closing of the dispensing aperture. With respect to claim 5, it would further have been obvious to make the box of Bayless with a transverse extent between two and three inches as a mere selection of the volume of material one wishes to hold in the box. The mere sizing of a container is within the level of skill in this art. See In re Rose, 105 USPQ 237 (CCPA 1955) and Gardner v. TEC Systems, Inc., 220 USPQ 777 (Fed. Cir. 1984).

12. Claims 1, 3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayless in view of any one of Adamek, Lambert, Raccaforte or Forbes, Jr. Bayless discloses a hexagonal box with a top pouring spout formed within the top closure flaps, but does not

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disclose formation of a slide closure. With respect to claim 5, Bayless also does not disclose formation of the transverse extent of the box between two and three inches. Each of Adamek, Lambert, Raccaforte and Forbes, Jr teaches that it is known to make the top closure flaps of a box with a slide closure including an actuation panel extending down a side of the box. It would have been obvious to make the top closure of the box in Bayless with a slide closure as taught by any one of Adamek, Lambert, Raccaforte or Forbes, Jr to facilitate repeated opening and closing of the dispensing aperture. With respect to claim 5, it would further have been obvious to make the box of Bayless with a transverse extent between two and three inches as a mere selection of the volume of material one wishes to hold in the box. The mere sizing of a container is within the level of skill in this art. See In re Rose, 105 USPQ 237 (CCPA 1955) and Gardner v. TEC Systems, Inc., 220 USPQ 777 (Fed. Cir. 1984).

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 in either paragraph 11 or 12 above, and further in view of Williamson. Modified Bayless evidences all structure of the claimed box except stops for limiting movement of the slide. Williamson teaches that it is known to provide stops (31'') on a slide closure to limit the movement of a slide closure. It would have been obvious to make the slide closure in Bayless with stops as taught by Williamson to prevent unwanted movement of the closure during use.

Conclusion

The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (703)872-9306. This practice may be

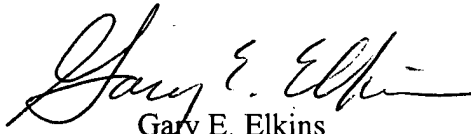
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used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Lee Young can be reached at (571)272-4549.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
27 June 2005